

MEMORANDUM

August 9, 2006

TO: THE LOS ANGELES COUNTY CLAIMS BOARD

FROM: EMERY EL HABIBY
Senior Associate County Counsel
General Litigation Division

RE: Gevork Basmadjian, et al. v. County of Los Angeles, et al.
Los Angeles County Superior Court Case No. KC045850

DATE OF
INCIDENT: March 21, 2005

AUTHORITY
REQUESTED: \$35,000

COUNTY
DEPARTMENT: Department of Parks and Recreation

CLAIMS BOARD ACTION:



Approve



Disapprove



Recommend to Board of
Supervisors for Approval


_____, Chief Administrative Office
ROCKY A. ARMFIELD


_____, County Counsel
JOHN F. KRATTLI


_____, Auditor-Controller
MARIA M. OMS

on September 5, 2006

SUMMARY

This is a recommendation to settle for \$35,000 the lawsuit brought against the County of Los Angeles by Gevork Basmadjian, Nazeli Kiradzhyan, and Vahe Basmadjian, a minor by and through his Guardian Ad Litem, Nazeli Kiradzhyan, seeking damages for their personal injuries and emotional distress resulting from a slip and fall accident on a paved sidewalk at Frank G. Bonelli Regional Park on July 4, 2004.

LEGAL PRINCIPLE

The County may be held liable for damages caused or contributed to by a dangerous condition of its public property.

SUMMARY OF FACTS

On July 4, 2004, at approximately 11:00 a.m., Gevork Basmadjian was walking behind his five-year-old son, Vahe Basmadjian, who was riding a scooter down a paved sidewalk at Frank G. Bonelli Regional Park. At a low elevation of the sidewalk, there was a large area of ponding water. When Vahe entered into the ponding water on his scooter, he slipped and fell. In an attempt to reach for his son, Mr. Basmadjian also slipped and fell in the ponding water and struck his head against the ground. Mr. Basmadjian received a mild concussion and momentarily lost consciousness and suffered a seizure. While Mr. Basmadjian's wife, Nazeli Kiradzhyan, did not see the incident, she heard Vahe's cries when he and Mr. Basmadjian fell. Mrs. Kiradzhyan, who was seven months pregnant at the time, experienced labor pains almost immediately after the incident.

County lifeguards performed first-aid on Mr. Basmadjian and Vahe. After Mr. Basmadjian's condition was stabilized, he was transported by ambulance to San Dimas Community Hospital, where he was treated for his injuries.

The Basmadjians contend that the ponding water existed as a dangerous condition and for such a period of time that the County would have had notice upon a reasonable inspection.

DAMAGES

Mr. Basmadjian claims damages for medical services and treatment, which included neurological diagnostics, chiropractic care and physical therapy, as well as pain and suffering. He claims exacerbation of a prior generalized seizure condition which was in remission. Vahe claims damages for diagnostic medical care. Mrs. Kiradzhyan claims damages for the emotional

distress she experienced in witnessing the falls of Vahe and Mr. Basmadjian. Should this matter proceed to trial, we believe the Basmadjians will claim damages as follows:

Past Medical Expenses	
– Gevork Basmadjian	\$ 31,000
– Vahe Basmadjian	\$ 700
Pain and Suffering	<u>\$120,000</u>
TOTAL	<u>\$151,700</u>

STATUS OF CASE

The trial date for this case was vacated to allow action on this proposed settlement. Expenses incurred by the County in defense of this matter to date are attorneys' fees of \$73,834.04 and costs of \$16,965.45. These expenses reflect a significant amount of work to prepare this case for trial, including several depositions and interviews with County employees and witnesses, consultation with medical experts and depositions of experts designated for trial.

EVALUATION

This is a case of contested liability. The area of ponding water measured approximately eight feet by eight feet and approximately two to three inches deep. Moreover, the ponding water was situated on a sidewalk that was regularly used by pedestrians and scooter riders alike, including children. Although park employees were unable to identify the precise source of the water, they acknowledged that there was a history of water ponding in this exact location of the park.

A jury may find that the ponding water constituted a dangerous condition and that a reasonable inspection by park employees would have revealed its existence before the park was opened to the public. While the County will contend that the ponding water was an open and obvious condition of which Vahe and Mr. Basmadjian should have been aware before placing themselves in the area, Vahe's young age may mitigate the County's contention of such contributory negligence. Further, a jury may be inclined to reduce the allocation of liability against Mr. Basmadjian for attempting to rescue his fallen son.

Settlement of this case will avoid the potential of a jury award in excess of the settlement amount and the further cost of a four-day trial and preparation, including the additional cost of two expert witness depositions and fees.

RECOMMENDATION

We believe that settlement of this matter in the amount of \$35,000 is in the best interest of the County. The Department of Parks & Recreation concurs with this recommendation.

APPROVED:

A handwritten signature in black ink, appearing to read "Ralph L. Rosato", written over a horizontal line.

RALPH L. ROSATO

Assistant County Counsel
General Litigation Division